

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1094

Introduced by Jensen, 20; Dickey, 18; Schrock, 38

Read first time January 7, 2000

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-1,104, Revised Statutes Supplement, 1999; to
3 change provisions relating to violations by the licensee;
4 to provide penalties; to provide duties; to harmonize
5 provisions; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-1,104, Revised Statutes
2 Supplement, 1999, is amended to read:

3 53-1,104. (1) Any licensee which sells or permits the
4 sale of any alcoholic liquor not authorized under the terms of such
5 license on the licensed premises or in connection with such
6 licensee's business or otherwise shall be subject to suspension,
7 cancellation, or revocation of such license by the commission.

8 (2) When an order suspending a retail license to sell
9 alcoholic liquor becomes final, the licensee may elect to pay a
10 cash penalty to the commission in lieu of suspending sales of
11 alcoholic liquor for the designated period if such election is not
12 prohibited by order of the commission. ~~For~~ Except as otherwise
13 provided in subsection (3) of this section, for the first such
14 suspension for any licensee, the penalty shall be fifty dollars per
15 day, and for ~~For~~ a second or any subsequent suspension, the
16 penalty shall be one hundred dollars per day. ~~except that:~~

17 (3)(a) For a second suspension for violation of section
18 53-180 or 53-180.02 occurring within four years after the date of
19 the first suspension, the commission, in its discretion, may order
20 that the licensee be required to suspend sales of alcoholic liquor
21 for a period of time not to exceed forty-eight hours and that the
22 licensee may not elect to pay a cash penalty. The commission may
23 use the required suspension of sales of alcoholic liquor penalty
24 either alone or in conjunction with suspension periods for which
25 the licensee may elect to pay a cash penalty. For purposes of this
26 subsection, second suspension for violation of section 53-180 shall
27 include suspension for a violation of section 53-180.02 following
28 suspension for a violation of section 53-180 and second suspension

1 for violation of section 53-180.02 shall include suspension for a
2 violation of section 53-180 following suspension for a violation of
3 section 53-180.02. ~~† and~~

4 (b) For a third or subsequent suspension for violation of
5 section 53-180 or 53-180.02 occurring within four years after the
6 date of the first suspension, the commission, in its discretion,
7 may order that the licensee be required to suspend sales of
8 alcoholic liquor for a period of time not to exceed fifteen days
9 and that the licensee may not elect to pay a cash penalty. The
10 commission may use the required suspension of sales of alcoholic
11 liquor penalty either alone or in conjunction with suspension
12 periods for which the licensee may elect to pay a cash penalty.
13 For purposes of this subsection, third or subsequent suspension for
14 violation of section 53-180 shall include suspension for a
15 violation of section 53-180.02 following suspension for a violation
16 of section 53-180 and third or subsequent suspension for violation
17 of section 53-180.02 shall include suspension for a violation of
18 section 53-180 following suspension for a violation of section
19 53-180.02. and

20 (c) For a first suspension based upon a finding that a
21 licensee or an employee or agent of the licensee has been convicted
22 of possession of a gambling device on a licensee's premises in
23 violation of sections 28-1107 to 28-1111, the commission shall
24 order that the licensee be required to suspend sales of alcoholic
25 liquor for thirty days and that the licensee may not elect to pay a
26 cash penalty. For a second or subsequent suspension for such a
27 violation of sections 28-1107 to 28-1111 occurring within four
28 years after the date of the first suspension, the commission shall

1 order that the license be canceled.

2 (4) For any licensee which has no violation for a period
3 of four years consecutively, any suspension shall be treated as a
4 new first suspension.

5 (5) The election provided for in ~~this~~ subsection (2) of
6 this section shall be filed with the commission in writing one week
7 before the suspension is ordered to commence and shall be
8 accompanied by payment in full of the sum required by this section.
9 If such election has not been received by the commission by the
10 close of business one week before the day such suspension is
11 ordered to commence, it shall be conclusively presumed that the
12 licensee has elected to close for the period of the suspension and
13 any election received later shall be absolutely void and the
14 payment made shall be returned to the licensee. The election shall
15 be made on a form prescribed by the commission. All funds received
16 under this section shall be remitted to the State Treasurer for
17 credit to the temporary school fund.

18 Sec. 2. Original section 53-1,104, Revised Statutes
19 Supplement, 1999, is repealed.